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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,243	04/19/2006	Francis Dieras	0608-1012	1477

466 7590 08/19/2010  
YOUNG & THOMPSON  
209 Madison Street  
Suite 500  
Alexandria, VA 22314

EXAMINER
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CONLEY, SEAN EVERETT

ART UNIT	PAPER NUMBER
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1797

NOTIFICATION DATE	DELIVERY MODE
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08/19/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,243	<b>Applicant(s)</b> DIERAS ET AL.	
	<b>Examiner</b> SEAN E. CONLEY	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/8/2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,8,10,11,16 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,8,10,11,16 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The response filed June 8, 2010 has been received and considered for examination. Claims 1, 3-5, 8, 10-11, and 16-17 are presently pending.

#### ***Response to Arguments***

2. The rejections under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, cited in the previous office action are withdrawn in response to the claim amendments filed June 8, 2010.

3. Applicant's arguments with respect to the rejections under 35 U.S.C 102(b) have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 3-5, 8, 10-11, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moulton et al. (U.S. Patent No. 5,178,829) in view of Jacobs et al. (U.S. Patent No. 5,667,753).

Concerning claim 1, Moulton et al. discloses a method for sterilizing objects, in particular medical or surgical instruments, in which a plasma is created in an enclosure (2) by action of a magnetron (6) to produce an electric field on a gaseous flow and the

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post-discharge flow which issues therefrom is passed through a conduit (delivery tubes 54, 56, 58) and brought into contact with the surface of the objects to be treated in the chamber (see figures 1 and 3; see col. 2, line 55 to col. 3, line 18; see col. 3, line 65 to col. 7, line 44). However, Moulton et al. does not appear to teach an object holder within the sterilization chamber for holding items to be sterilized.

Jacobs et al. discloses a sterilization chamber wherein objects to be sterilized are placed on a metal object holder (metal shelf) within the chamber and exposed to plasma (see col. 11, line 45 to col. 12, line 21; see col. 9, lines 40-46; see col. 5, lines 19-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Moulton et al. and include a metal shelf in the treatment chamber as exemplified by Jacobs et al. in order to support the instruments within the chamber thus enabling the sterilant to circulate completely around the instruments. Furthermore, the combination of Moulton et al. and Jacobs et al. results in a device that has a metal object holder that is capable of generating heat under the effect of recombination of nitrogen.

Concerning claims 3-5, 10-11, and 16-17, the limitations of these claims are directed to the sterilization chamber which has not been positively recited as being part of the claimed device (see claim 1).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moulton et al. in view of Jacobs et al. as applied to claim 1 above, and further in view of High et al. (U.S. Patent No. 6,467,618 B2).

The combination of Moulton et al. and Jacobs et al. is silent with regards to specific materials for the metallic object holder, therefore, it would have been necessary and thus obvious to look to the prior art for conventional materials. High et al. provides this conventional teaching showing that it is known in the art to use brass as the material for an object holder in a sterilization chamber since it resists corrosion to sterilization processes. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the object holder from brass motivated by the expectation of successfully practicing the invention of the combination of Moulton et al. and Jacobs et al.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 13, 2010

/Sean E Conley/  
Primary Examiner, Art Unit 1797